

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE:

B-221880.2

DATE: May 5, 1986

MATTER OF:

Laclede Chain Manufacturing Company

## DIGEST:

Protest that agency improperly terminated a contract awarded to the protester for convenience, upon finding that another firm actually offered evaluated lower costs and therefore should have received the award, is dismissed where protester does not allege that the initial award in fact was proper or that the termination action compromises the integrity of the procurement process.

Laclede Chain Manufacturing Company protests the termination for convenience of a contract with Laclede to supply tire chains to the Department of the Army under invitation for bids (IFB) No. DAAE07-86-B-J049 and the decision to award the contract under that solicitation to Campbell Chain.

We dismiss the protest.

The IFB requested bids for tire chains to be delivered to three Army bases and provided that transportation costs, on an FOB origin basis, would be added to each bid to determine the lowest bidder. The Army received three bids, and its Transportation Management Branch provided the contracting officer with the transportation costs applicable to each bid. These costs, which were based on tenders filed with the Eastern Area Military Traffic Management Command (EAMTMC), were added to the bids, and the contracting officer found that Laclede offered to provide the chains at the lowest cost to the government. On February 14, 1986, a contract was awarded to Laclede.

On February 24, Campbell Chain filed a protest with this Office alleging that the Army improperly evaluated the transportation costs and that a proper evaluation would reveal that Campbell was the low bidder. In its protest, Campbell did not provide the tariffs it thought were applicable, because it did not know what tariffs the Army used to evaluate the bids. In response to Campbell's protest, the Army reevaluated the transportation costs and found

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that while it had made an error in the initial evaluation, with the revised costs, Laclede still was low. Campbell responded to this information with the tariffs it thought should be applied and an analysis showing that its bid actually was the lowest one received. Subsequently, the Army asked EAMTMC to reevaluate the transportation costs for Laclede and Campbell again. This review revealed that EAMTMC had overlooked applicable tariffs and that when the correct rates were used, the bid submitted by Campbell offered the lowest cost to the government. As a result, the Army terminated, for convenience, the contract awarded to Laclede and intends to award the contract to Campbell.

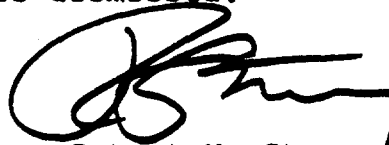
Laclede protests that the validity of Campbell's allegations should have been determined by this Office, rather than by the Army, and based solely on information provided during the development of the protest. In this regard, Laclede argues that it was improper for the Army to undertake a third evaluation of transportation costs. Laclede also asserts that since the initial evaluation was based on information provided by EAMTMC and the award to Laclede was made in good faith, the award to Laclede should not be disturbed.

Our Office generally will not review a contracting agency's decision to terminate a contract for convenience, since the matter is one of contract administration for consideration by a contract appeals board or by a court of competent jurisdiction. O.K. Tool and Die Co., B-219806, Oct. 9, 1985, 85-2 C.P.D. ¶ 398. Where, however, the decision to terminate results from the agency's finding that the initial contract award was improper, we will review the protest to examine the award procedures that underlie the termination action. The scope of our review is limited to determining whether the initial award was improper and, if so, whether the corrective action taken is sufficient to protect the integrity of the competitive procurement system. Id.

Laclede does not contend that Campbell was not, in fact, the low bidder based on a proper evaluation. Instead, Laclede only argues that it was improper for the Army to consider information outside that provided in the protest in responding to Campbell's complaint, and that its contract should stand because it was awarded in good faith and based on costs provided by transportation experts. Neither the fact that a contract award was made in good

faith nor the fact that a protest is before this Office, however, prohibits a procuring agency from reevaluating proposals and taking appropriate action to correct any mistakes it discovers. See Central Texas College, B-211167.3, Mar. 2, 1984, 84-1 C.P.D. ¶ 259. We have held that to preserve the integrity of the competitive procurement process, where it is discovered shortly after award that an erroneous award has been made, it normally is appropriate for the government to correct its mistake by terminating the improper award and making the award that should have been made in the first place. Medical Gas & Respiratory Services, Inc., B-216632, Feb. 27, 1985, 85-1 C.P.D. ¶ 246.

Since Laclede does not dispute the Army's ultimate finding that Campbell was entitled to the contract that had been awarded to Laclede, we see no legal basis on which to object to the Army's decision to terminate Laclede's contract. The protest is dismissed.



Robert M. Strong  
Deputy Associate General Counsel